

EXHIBIT L

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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NANCY DENARDI, :
 :
Plaintiff, : Docket No.
 :
-against- : 07CIV5794
 :
DRA IMAGING, P.C. and : (MGC)
 :
IMAGING SUPPORT SERVICES, LLC, :
 :
Defendants. :

-----X

June 17, 2008

10:30 a.m.

Deposition of Defendants, by **VIRGINIA BARKYANI**, held at the offices of Keane & Beane, P.C., 445 Hamilton Avenue, White Plains, New York, before a Notary Public within and for the State of New York.

1 V. Barkyani

2 with Heather about coming to work at DRA?

3 A. Nancy and Heather had asked if there
4 was anything available for Heather when she was
5 going to Dutchess Community in the fall, her
6 schedule would have been rather flexible and
7 kind of erratic from one semester to the other
8 and asked if there was anything available.

9 Q. You said Heather and Nancy asked you
10 about Heather coming to work for DRA; is that
11 your testimony?

12 A. Yes.

13 Q. And were they together when they
14 spoke to you?

15 A. No, they were not.

16 Q. And other than what you're
17 testifying to today, is there any other proof
18 that you have that Nancy DeNardi was supportive
19 of Heather coming to work at DRA?

20 A. Was she supportive?

21 Q. Right. Other than what you are
22 testifying to.

23 A. There is nothing written.

24 Q. How did you respond when you were
25 asked about opportunities for Heather?

1 V. Barkyani

2 A. I told them I would let them know
3 and I asked Mark about hiring her.

4 Q. And that would be Mark Newton?

5 A. Mark Newton.

6 Q. What did you say to Mr. Newton?

7 A. What did I say to him?

8 Q. Yes.

9 A. I asked him if it would be okay to
10 take Heather on during the school year a few
11 hours a week. He asked me if there was a need
12 and there was always a need in billing for
13 help.

14 Q. And so he said yes?

15 A. Yes.

16 Q. And then what did you do?

17 A. I let Nancy know that Heather could
18 work a couple of hours a week.

19 Q. And who set Heather's salary?

20 A. I guess Mark and I discussed it.

21 Q. What was the salary going to be?

22 A. I believe it was 8 or \$9.

23 Q. Per hour?

24 A. Yes.

25 Q. And was there an agreement as to

1 V. Barkyani

2 what days she would work per week or was it
3 flexible, according to her schedule?

4 A. Initially, it was flexible. As we
5 got a little tighter in the billing office and
6 space was tough -- probably a little on when
7 space got a little tighter, because we had been
8 planning on moving and as space got tighter we
9 had to specify which days and play with the
10 seating so that there was enough seating for
11 people.

12 Q. When did she start? Would it have
13 been September of 2004?

14 A. Yeah.

15 Q. And for how long a period of time
16 was it more flexible where she would come in
17 sort of based on her schedule?

18 A. For a year or so.

19 Q. So from September '04 to September
20 '05, she sort of set the schedule that she
21 would come in?

22 A. About. I mean, around that time we
23 hired a couple of additional people. It just
24 got tight. I don't have a definite time frame,
25 but it was flexible at first.

1 V. Barkyani

2 A. Yes, Nancy's husband.

3 Q. Was she in the hospital at the time
4 that he had advised you that they had found
5 cancer?

6 A. Yes.

7 Q. How long was she in the hospital?

8 A. A few days, maybe.

9 Q. Was she out on disability for a
10 period of time after the surgery?

11 A. Yes, after her second surgery.

12 Q. How long?

13 A. She came back December 5th and was
14 out from October, mid October some time until
15 December 5th.

16 Q. How are you able to remember that
17 specific date, December 5th?

18 A. Because my sister and I went on
19 vacation that week and, unfortunately, had to
20 leave Carol -- we were gone. That was Nancy's
21 first day back and we were going to miss her
22 first day back.

23 Q. When did you leave for vacation?

24 A. Saturday, perhaps.

25 Q. How long were you going to be away?

1 V. Barkyani

2 Q. When you made your plans, were you
3 aware that Mrs. DeNardi was going to be
4 returning to work on December 5th?

5 A. No.

6 Q. In any event, at some point you
7 learned that Mrs. DeNardi was going to be
8 returning to work on December 5th; correct?

9 A. Yes.

10 Q. Did you ask her or telephone her or
11 contact her in any way to find out whether you
12 could discuss with her transitioning back into
13 her position?

14 A. Beforehand?

15 Q. Yes.

16 A. No.

17 Q. Do you know whether or not she was
18 required to undergo any sort of chemotherapy?

19 A. I think it was Vic who told us that
20 she was going to have to do chemo, just as a
21 preventive, because of her age.

22 Q. And how often would that be?

23 A. He didn't lay out a schedule for me.

24 Q. When Mrs. DeNardi returned to work,
25 was she required to attend chemotherapy

1 V. Barkyani

2 appointments during the working week?

3 A. Yes.

4 Q. And on what sort of frequency or
5 what was the schedule?

6 A. Every other week she would have to
7 go twice in that week.

8 Q. And what would occur during those
9 appointments?

10 A. I don't know what happened when she
11 went there.

12 Q. Do you know why she had to go twice?

13 A. Once, the first one they told me
14 they hooked up the drug on a pack that she wore
15 around her waist and then two days later she
16 would go back and have it removed.

17 Q. And she would do that during the
18 workday?

19 A. Yes.

20 Q. And how long would she be out in
21 order to receive the chemotherapy?

22 A. Tuesdays was a few hours, three to
23 five hours maybe. Thursday was a much shorter
24 period of time. About an hour, I think.

25 Q. And when she returned from the

1 V. Barkyani

2 desk.

3 Q. Now, you said in March 2006 she was
4 working on Cerner so she shouldn't have had a
5 lot of work on her desk?

6 A. Correct.

7 Q. Had her job duties been removed from
8 her so that she could just work on Cerner?

9 A. After she was back for a few weeks
10 around holiday time 2005, I asked Nancy if she
11 would like to take over the Cerner interface.
12 She was involved in the project almost from its
13 inception, she knew all the problems associated
14 with it. It was certainly an important function
15 to DRA. It's the backbone for the company's
16 financial health. There were not many people
17 in the department that could really work on
18 that interface because of all the issues and
19 problems with it.

20 Q. And what did she say? You said you
21 asked her if she wanted to get involved in it.

22 A. Right. I spoke about all that I
23 just stated. There was nobody in the
24 department, really, that we could give it to.
25 I asked her if she wanted to take it over and

1 V. Barkyani

2 she said, yeah, if you want me to.

3 Q. Now, Carol Gustin was working on the
4 Cerner interface at that point; correct?

5 A. Carol and Jackie had been working on
6 it, yes.

7 Q. At the time you had the conversation
8 with Mrs. DeNardi, was Carol still working on
9 the Cerner interface?

10 A. Yes.

11 Q. Was Jackie still working on the
12 Cerner interface?

13 A. Yes.

14 Q. Were you working on the Cerner
15 interface?

16 A. Not directly. We were all working
17 on the problem, but the interface itself,
18 getting the charges into the system, ironing
19 out the bugs, was Carol and Jackie.

20 Q. And when you had this conversation
21 with Mrs. DeNardi -- and you say it was around
22 the holidays in December of 2005; correct?

23 A. Yes.

24 Q. -- were you asking her to become
25 involved along with Carol and Jackie or were

1 V. Barkyani

2 you asking her to take over the entire
3 interface itself?

4 A. No, I needed someone to take it
5 over. I needed to get Jackie out of there.
6 There were just too many payment problems,
7 contract problems, which is what Jackie worked
8 on. And Carol, I needed to get out of there a
9 little bit, too. I needed to put somebody else
10 on that project. Nancy would have been the
11 perfect choice. Her background was perfect for
12 it, she had a lot of insurance knowledge. She
13 was probably one of the best people for the
14 project, even over Jane. Jane was involved in
15 the project initially, who is kind of under
16 Nancy, but Jane asked to be removed from the
17 project because it was just too stressful. So
18 Nancy said, sure, if you want me to take it
19 over, I'll do it.

20 Q. Was anybody present when you had
21 this conversation with Mrs. DeNardi?

22 A. No, I believe it was just Nancy and
23 myself.

24 Q. Where were you located when this
25 conversation took place?

1 V. Barkyani

2 A. In my office.

3 Q. How long did the conversation take?

4 A. Maybe only ten minutes or so.

5 Q. Did you make any notes?

6 A. I don't believe I did.

7 Q. Other than your testimony that such
8 a conversation took place, do you have any
9 other proof that would verify that you, in
10 fact, asked Mrs. DeNardi to take over the
11 entire interface and that she agreed?

12 MR. KLEIN: Objection to the form.

13 You can answer.

14 A. I believe in her deposition she
15 relayed that conversation. So, aside from that
16 -- I mean, just that particular conversation
17 with her saying she would take it over, there
18 was nobody else present.

19 Q. It's essentially your word against
20 Mrs. DeNardi's word; correct?

21 MR. KLEIN: Objection to the form.

22 You can answer.

23 A. I think she even relayed that
24 conversation.

25 Q. Did you discuss what would happen to

1 V. Barkyani

2 her other job responsibilities if she agreed to
3 take over Cerner exclusively?

4 A. Yes.

5 Q. And what did you say in that regard?

6 A. I had told her that she could not do
7 her present job function and that it was just
8 too much. Cerner needed her whole focus; that
9 she would be working with Carol; Carol would
10 train her on that, as Carol had been with that
11 from before go live and had been working out
12 all the problems since then, and she said okay.

13 Q. Was Carol very frustrated with the
14 project at that point?

15 A. At the point that I asked Nancy to
16 take it over?

17 Q. Yes.

18 A. No. It was actually looking a
19 little better. The bugs were being worked out.

20 Q. Was it essentially a data entry
21 function where you were just inputting
22 information into the system?

23 A. Not at all.

24 Q. What did that function involve?

25 A. It involved some type of programming

1 V. Barkyani

2 A. Well, she could come to me as a
3 supervisor. I am the overall department
4 operations manager.

5 Q. Could the new supervisor terminate
6 Ronnee Monroe?

7 A. No.

8 Q. Were you the only person that could
9 terminate any of the people in the billing
10 department?

11 A. I couldn't even just terminate
12 anybody in the billing department.

13 Q. You needed authorization from
14 somebody?

15 A. Yeah.

16 Q. Who?

17 A. Mark Newton.

18 Q. Could Carol Gustin terminate anybody
19 in the billing department?

20 A. No.

21 Q. Could Jackie Bourne?

22 A. No.

23 Q. When, in relation to the job
24 posting, did you interview Shari McCauley?

25 A. Probably pretty close to the

V. Barkyani

for the operations of the department; correct?

A. Correct.

Q. As manager, do you handle financial reports for the company presently?

A. No.

Q. Who does that?

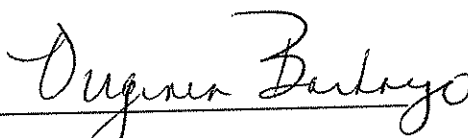
A. Kathy Rambo.

MS. PERRY: Since we are going to come back for a brief period of time, why don't we call it a day now?

MR. KLEIN: That's fine.

MS. PERRY: We're going to end for today.

(Time noted: 4:50 p.m.)


Virginia Barkyani

Subscribed and sworn to before me
this 6 day of August, 2008.



Notary Public

CHRISTINE PALUMBO
Notary Public, State of New York
No. 01PA6077156
Qualified in Orange County
Commission Expires July 08, 20 10

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C E R T I F I C A T E

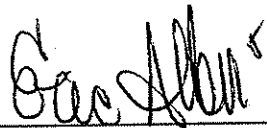
STATE OF NEW YORK)
 : SS.
COUNTY OF NEW YORK)

I, ERIC ALLEN, a Notary Public
within and for the State of New York, do
hereby certify:

That VIRGINIA BARKYANI, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 2nd day of July, 2008.



ERIC ALLEN

ERRATA SHEET

Deposition of Virginia Barkanyi, held on June 17, 2008

Re: *DeNardi v. DRA Imaging, P.C., et al.*, 07 Civ. 5794 (MGC)

PAGE	LINE(S)	READS	SHOULD READ	REASON FOR CHANGE
4	2	Barkyani	Barkanyi	misspelling
48	3	manager	director	clarification
115	2	Note	No	typo
119	8	mother	more	typo
35	2	No	Yes. Shari McCouley	clarification
138	8	year	years	clarification
201	21	off	auth	clarification
233	2	in	and	clarification
255	3	did I	I did	clarification

Virginia Barkanyi
 Virginia Barkanyi

Sworn to before me this

16 day of August, 2008

Christine Palumbo

Notary Public

CHRISTINE PALUMBO
 Notary Public, State of New York
 No. 01PA6077158
 Qualified in Orange County
 Commission Expires July 06, 2010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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NANCY DENARDI,

:

Plaintiff, : Docket No.

-against-

: 07CIV5794

DRA IMAGING, P.C. and

:

(MGC)

IMAGING SUPPORT SERVICES, LLC, :

Defendants. :

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July 18, 2008

1:36 p.m.

Continued deposition of **VIRGINIA BARKYANI**,
taken by Plaintiff, pursuant to Adjournment,
at the offices of Keane & Beane, P.C.,
445 Hamilton Avenue, White Plains, New York,
before Joseph R. Danyo, a Shorthand Reporter
and Notary Public within and for the State of
New York.

1
2 VIRGINIA BARKYANI, having
3 been resworn by Joseph R. Danyo, a Notary
4 Public for the State of New York, was
5 examined and testified further as follows:

6 EXAMINATION CONTINUED

7 BY MS. PERRY:

8 Q. Do you need me to go over the
9 instructions again from the last time?

10 A. No, I don't think so.

11 Q. On May 5, 2006, when Mrs. Denardi
12 allegedly lied to you about punching Heather
13 out, was anybody else present?

14 A. Present when?

15 Q. When she allegedly lied to you.

16 A. No.

17 Q. When did the conversation take place?

18 A. On May 5.

19 Q. At what time?

20 A. Approximately 10:05 to about 10:15,
21 10:20.

22 Q. That is when it took place? It took
23 place between 10:05 and 10:15?

24 A. The conversation that I had with
25 her, yes.

1 V. Barkyani

2 paper that I had handed over with some of those
3 detailed notes that I had on my handwritten
4 copy.

5 Q. When did you prepare that document?

6 A. I don't have an exact date of when I
7 typed that document up.

8 (Plaintiff's Exhibit 11, Typewritten
9 transcription of handwritten notes, was so
10 marked for identification.)

11 Q. If you could take a look at what the
12 court reporter has marked as Plaintiff's
13 Exhibit 11.

14 A. Okay.

15 Q. Is this the typewritten transcription
16 of your handwritten notes?

17 A. For which incident?

18 Q. For any incident. You testified
19 that you typed something up on May 9, correct?

20 A. This is the May 9, yes.

21 Q. And you typed this yourself?

22 A. Yes.

23 Q. Did anybody else type any portion of
24 it?

25 A. I don't believe so.

1 V. Barkyani

2 Q. Were you alone when you typed it?

3 A. I don't recall.

4 Q. What time of day did you type it?

5 A. Probably it was the morning. Probably
6 May 9, early that morning when I came in.

7 Q. Is there any reason why on that
8 particular day you decided that you would type
9 up the handwritten note?

10 A. Any reason on that day?

11 Q. Yes.

12 A. I needed to get a copy to Sue K. at
13 human resources.

14 Q. Did she ask you for a typed up
15 statement?

16 A. She wants anything written up, any
17 type of employee-related documents, as soon as
18 after the fact.

19 Q. How did she convey that to you?

20 A. She did not convey it to me
21 particularly about this incident. It is for
22 any related employee thing.

23 Q. Well, the incident that formed the
24 basis for the termination happened on May 5.

25 Is there any reason why you didn't type up your

1 V. Barkyani

2 notes on May 5 and hand them to Sue K. that
3 day?

4 A. The termination wasn't decided on
5 May 5.

6 Q. So that is why you didn't give her
7 anything on May 5?

8 A. That's correct.

9 Q. And she was terminated on May 8, the
10 day before this was typed up, correct?

11 A. Correct, Monday.

12 Q. Is there any reason why you didn't
13 type up your notes on May 8 and hand them in to
14 Sue K. on the day of the termination?

15 A. The termination took place later in
16 the day, so I made my notes before I left that
17 night and then the following morning would have
18 typed them all up.

19 Q. What I am looking at and what you
20 are looking at, Plaintiff's Exhibit 11, relates
21 to what occurred on May 5, correct?

22 A. Not just May 5.

23 Q. Well, show me or point me to any
24 portion of your statement that refers to any
25 day other than May 5.

1 V. Barkyani

2 A. The first sentence, Nancy Denardi
3 was terminated on 5/8 for falsifying time
4 records for another employee.

5 Q. Other than stating a date of the
6 termination, there is no description of what
7 occurred during that meeting when she was told
8 she was being terminated, correct?

9 A. Not by myself.

10 Q. Well, who was in the meeting?

11 A. Mark Newton was also in the meeting
12 on 5/8.

13 Q. And Nancy Denardi was there, correct?

14 A. Yes.

15 Q. And yourself, correct?

16 A. Um-hum.

17 Q. Did you ever see any statements that
18 Mr. Newton wrote about what occurred on May 8?

19 A. No, I have not.

20 Q. Did you ever write any statements
21 about what occurred during the meeting on May 8?

22 A. No. Just this indication here for
23 that day.

24 Q. That the termination occurred on
25 May 8, correct?

1 V. Barkyani

2 A. Yes.

3 Q. And you stated the reason why she
4 was terminated, correct?

5 A. The whole -- both paragraphs explain
6 the reason Nancy was terminated, yes.

7 Q. Was this statement a document that
8 was submitted to the Department of Labor in
9 connection with the unemployment proceeding?

10 A. I don't know the answer to that.

11 Q. Do you know whether or not DRA
12 submitted any written material to the Department
13 of Labor in connection with the unemployment
14 proceeding?

15 A. I did not submit anything. I don't
16 know if anyone did.

17 Q. Who made the decision to contest
18 Mrs. Denardi's unemployment claim?

19 A. I don't know.

20 Q. Did you speak to anybody about it?

21 A. No.

22 Q. Were you asked to provide any
23 information with regard to Mrs. Denardi's
24 unemployment claim?

25 A. I don't believe I was.

1 V. Barkyani

2 the organizational charts and the job duty
3 sheets. Were those documents that have already
4 been marked as exhibits during the depositions?

5 A. I believe so, and I had one sheet
6 with a few dates on it that we just went over,
7 some of the dates that were previously asked
8 that I didn't have the exact date.

9 Q. Were those notes that you had made?

10 A. Just my own notes.

11 Q. Did you review any notes that you
12 took during any of the depositions you have
13 attended to prepare for today's deposition?

14 A. No.

15 Q. Did you speak to Mark Newton on
16 May 5 about your interaction with Mrs. Denardi
17 at around 10 o'clock during the morning?

18 MS. BURNS: Objection to form.

19 You can answer.

20 A. I spoke to Mark shortly before I
21 left for the day, which was around lunchtime on
22 Friday the 5th.

23 Q. Why were you leaving at lunchtime?

24 A. I had an appointment that day, I
25 believe.

V. Barkyani

where she worked 80 hours after April of '06
where she worked overtime, correct? For example,
June 23, '06?

A. It looks like maybe three or four
weeks for the year. Three or four weeks out of
the year.

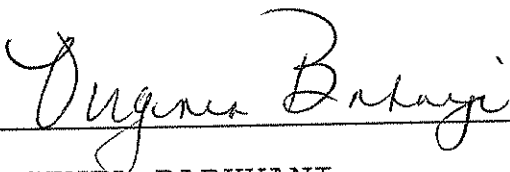
Q. I'm not asking you to quantify it.
My question was did she work overtime after
April '06?

A. It looks like there are a few
payrolls with overtime.

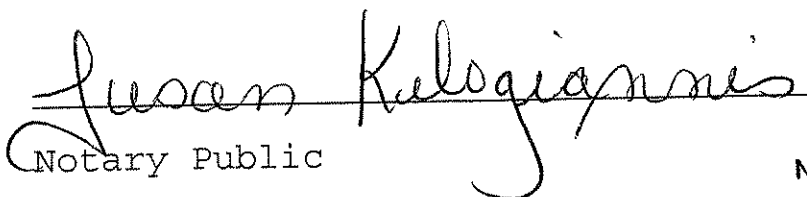
(Recess taken)

MS. PERRY: I have no further
questions.

(Time noted: 2:57 p.m.)


VIRGINIA BARKYANI

Subscribed and sworn to before me -
this 29 day of August, 2008.


Notary Public

SUSAN KALOGIANNIS
Notary Public, State of New York
No. 01KA6040547
Qualified in Ulster County
Commission Expires April 24, 2010

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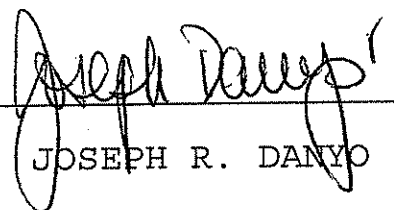
C E R T I F I C A T I O N

I, Joseph R. Danyo, a Shorthand
Reporter and Notary Public, within and for the
State of New York, do hereby certify:

That I reported the proceedings in
the within entitled matter, and that the within
transcript is a true record of such
proceedings.

I further certify that I am not
related, by blood or marriage, to any of the
parties in this matter and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 24th day of July, 2008.



JOSEPH R. DANYO

